

### **REMARKS**

The Office Action mailed October 10, 2001 (hereinafter the Office Action), has been received and reviewed. Claim 2 and claims 5 through 11 are currently pending in the application and each stands rejected. Applicants have herein canceled claim 11 without prejudice or disclaimer, and Applicants have herein amended claim 2 and claims 6 through 10. Applicants respectfully request reconsideration of the application in light of the amendments and remarks set forth herein.

#### **35 U.S.C. § 112 Rejection**

Claim 2 and claims 5 through 10 are rejected in the Office Action under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. In particular, it is asserted in the Office Action that the phrase “wherein the ethyl cellulose and the surfactant are each soluble in the solvent” is vague. Applicants respectfully note, however, that such phrase is no longer included in any of the pending claims. Therefore, Applicants respectfully request that the rejection of claim 2 and claims 5 through 10 under 35 U.S.C. § 112, second paragraph, be withdrawn.

#### **35 U.S.C. § 102 Rejections**

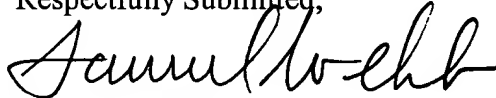
Claim 2 and claims 5 through 10 stand rejected under 35 U.S.C. § 102(b), as being anticipated by Zweigle (U.S. Patent 4,329,451). In order for a reference to anticipate a claim under Section 102(b), that reference must expressly or inherently set forth each and every element recited in the claim. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). In other words, the identical invention must be shown in as complete detail in the reference as is contained in the rejected claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit, however, that Zweigle fails to explicitly or inherently teach a composition having each and every element of any one of the compositions recited in the rejected claims. Specifically, Zweigle fails to

explicitly or inherently teach a composition including a single organic solvent. In fact, at col. 1, lines 42 through 53, Zweigle indicates that an organic solvent would be an undesirable component of the compositions taught therein. Therefore, Applicants respectfully submit that Zweigle does not explicitly or inherently teach each and every element of any of the pending claims, and Applicants respectfully request that the rejection of claim 2 and claims 5 through 10 under Section 102(b) be withdrawn.

### CONCLUSION

Claim 2 and claims 5 through 10 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully Submitted,



Samuel E. Webb

Registration No.: 44,394

ALZA Corporation

Intellectual Property Department, M10-3

P.O. Box 7210

Mountain View, CA 94039

(650) 564-5106

Enclosures: Version of Claims with Markings to Show Changes Made

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2. (Amended) A composition comprising 40 wt % to 99.5 wt % of ethyl cellulose; 0.5 wt % to 60 wt % of an amphiphilic triblock copolymer surfactant consisting of ethylene oxide-propylene oxide-ethylene oxide[,]; and a single organic solvent[, wherein the ethyl cellulose and the surfactant are each soluble in the solvent].
6. (Amended) The composition of claim 2, wherein the ethylene oxide-propylene oxide-ethylene oxide comprises, on a molar basis, 3 to 20 moles of ethylene oxide.
7. (Amended) The composition of claim 2, wherein the ethylene oxide-propylene oxide-ethylene oxide comprises, on a molar basis, 45 to 80 moles of ethylene oxide.
8. (Amended) The composition of claim 2, wherein the ethylene oxide-propylene oxide-ethylene oxide comprises, on a molar basis, 50 to 110 moles of ethylene oxide.
9. (Amended) The composition of claim 2, wherein the ethylene oxide-propylene oxide-ethylene oxide comprises, on a molar basis, 70 to 130 moles of ethylene oxide.
10. (Amended) The composition of claim 2, wherein the ethylene oxide-propylene oxide-ethylene oxide comprises, on a molar basis, 110 to 170 moles of ethylene oxide.